

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

UNITED STATES OF AMERICA,
Plaintiff,

v.

**GREG ABBOTT, in his capacity as
Governor of the State of Texas, and
THE STATE OF TEXAS,**
Defendants.

No. 1:23-cv-00853-DAE

**DEFENDANTS' AMENDED NOTICE OF INTENT TO TAKE ORAL AND
VIDEOTAPED DEPOSITION OF THE U.S. COAST GUARD PURSUANT TO RULE
30(b)(6)**

TO: The U.S. Coast Guard, by and through Brian H. Lynk, U.S. Department of Justice, Environmental Defense Section, P.O. Box 7611, Washington, DC 20044, and Landon Wade, U.S. Attorney's Office, Western District of Texas, 903 San Jacinto Blvd., Ste. 334, Austin, TX 78701, counsel for the United States of America, and to All Counsel of Record.

PLEASE TAKE NOTICE that pursuant to Federal Rule of Civil Procedure 30(b)(6) and by agreement of the parties, Defendants Greg Abbott, in his official capacity, and the State of Texas (collectively "Defendants") will take the oral and videotaped deposition of the U.S. Coast Guard, commencing at 9:00 a.m. CST on July 17, 2024. At the scheduled time, a representative for the U.S. Coast Guard is directed to appear at The Office of the Attorney General of Texas, 300 W. 15th Street, Austin, Texas 78701. The deposition will continue from time to time and place to place until concluded.

In accordance with Federal Rule of Civil Procedure 30(b)(6), Plaintiff is directed to designate one or more officers, directors, managing agents, or other persons who consent to testify on Plaintiff's behalf. The Defendants shall meet and confer with Plaintiff about the matters of

examination. A list of potential topics for examination is listed on Exhibit A to this Notice. The Plaintiff shall identify the specific subject matters listed on Exhibit A on which each designated person will testify. The person(s) designated as deponent(s) shall be prepared to testify as to such matters known or reasonably available to Plaintiff. This Notice serves to inform Plaintiff that it has a duty to make such designation.

The deposition will be recorded stenographically and on videotape. The deposition, answers, and documents referenced during the deposition may be read and used in evidence at the trial of this cause in accordance with the Federal Rules of Civil Procedure.

Date: June 20, 2024

Respectfully submitted,

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Attorney General of the State of Texas

Brent Webster
First Assistant Attorney General

Ralph Molina
Deputy Attorney General for Legal Strategy

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Counsel for Defendants

CERTIFICATE OF SERVICE

On June 20, 2024, this document was served on all counsel of record via email.

s/ Johnathan Stone
Johnathan Stone
Special Counsel

**EXHIBIT A TO NOTICE OF RULE 30(b)(6) DEPOSITION OF
THE U.S. COAST GUARD**

TOPICS FOR EXAMINATION¹

1. “Navigable waters” and “navigability” definitions, determinations, reports, and data relating to the Rio Grande River between Mile Markers 275.5 and 610;
2. “Highways of commerce” definitions, determinations, reports, and data relating to the Rio Grande River between Mile Markers 275.5 and 610;
3. Maritime Transportation Systems definitions, determinations, reports, and data relating to the Rio Grande River between Mile Markers 275.5 and 610;
4. The U.S. National Inland Transportation System definitions, determinations, reports, and data relating to the Rio Grande River between Mile Markers 275.5 and 610;
5. Current agency policies, procedures, protocols, and regulations relating to commercial navigation, including but not limited to the U.S. Marine Transportation Systems, the Maritime Transportation Systems, U.S. National Inland Transportation System, interdictions, boardings, inspections, imports, and customs;
6. Agency policies, procedures, protocols, regulations, and operations relating to the Intercoastal Waterway, the Mississippi river, Tennessee-Tombigbee Waterway, Alafia River, Red River, and all ports located in Texas along the Rio Grande River;
7. The minimum (and average) dimensions and depths the Intercoastal Waterway, the Mississippi river, Tennessee-Tombigbee Waterway, Alafia River, Red River, and all ports located in Texas along the Rio Grande River;
8. The minimum (and average) dimensions and depths of U.S. waterways where the agency operates and conducts inspections of vessels and barges carrying commercial cargo;
9. The minimum (and average) dimensions and depths of U.S. waterways where the agency operates and conducts inspections of vessels and barges carrying commercial cargo;
10. The minimum (and average) dimensions and depths of waterways in the U.S. Maritime Transportation System, U.S. National Inland Transportation Systems, National Waterway Network, and U.S. Waterway Systems.
11. Agency policies, procedures, protocols, and regulations relating to Class A vessels, Class I vessels, canoes, kayaks, airboats, commercial vessels and/or vessels or barges carrying

¹ Mile Markers 275.5 to 610 refers to the segment of the Rio Grande River that Plaintiffs contend in this lawsuit is navigable.

commercial cargo;

12. Current or historical use as a highway of commerce to transport goods or commodities in lawful interstate or foreign commerce on the Rio Grande River between Mile Markers 275.5 and 610;
13. Commercial navigation on the Rio Grande River between Mile Markers 275.5 and 610;
14. Agency policies, procedures, protocols, regulations, and operations relating to intermodal and maritime logistics, supply chain management, commodity corridors, and supply chain resilience on the Rio Grande River between Mile Markers 275.5 and 610 from 2020 through the present;
15. Specifications, recommendations, and warnings relating to agency vessels operating on the Intercoastal Waterway, the Mississippi river, Tennessee-Tombigbee Waterway, Alafia River, Red River, and all ports located in Texas along the Rio Grande River, from 2020 through the present, including length, width, passenger, capacity, weight capacity, and draft;
16. Current agency policies, procedures, protocols, and regulations relating to recreational navigation;
17. Recreational navigation on the Rio Grande River between Mile Markers 275.5 and 610;
18. Agency policies, procedures, protocols, and regulations relating to operations on the Rio Grande River between Mile Markers 275.5 and 610 from 2020 through the present;
19. Agency operations on the Rio Grande River between Mile Markers 275.5 and 610 from 2020 through the present;
20. Specifications, recommendations, and warnings relating to agency vessels operating between Mile Markers 275.5 and 610 of the Rio Grande River from 2020 through the present, including length, width, passenger, capacity, weight capacity, and draft;
21. Marine safety unit and/or search and rescue operations on the Rio Grande River between Mile Markers 275.5 and 610 from 2020 through the present;
22. The impact of the buoys on agency operations between Mile Markers 275.5 and 610 of the Rio Grande River, including but not limited to any actual obstruction, delay, obstacle, or restriction;
23. Nighttime operations involving the use of vessels in the location of the buoys from June 2023 through the present;
24. Any actual navigation of the Rio Grande River that has been obstructed, harmed, or otherwise affected by the presence of the buoys;

25. Damage to agency vessels caused by collision or making contact with rocks, shoals, debris, weirs, dams, buoys, structures, booms, cableways, and/or any other object, while operating between Mile Markers 275.5 and 610 of the Rio Grande River from 2020 through the present;
26. Border security on the Rio Grande River between Mile Markers 275.5 and 610 from 2020 through the present, including but not limited to the impact of the buoys and razor wire installed by Texas;
27. Drownings and deaths between Mile Markers 275.5 and 610 of the Rio Grande River from 2020 through the present;
28. The number and impact of illegal people, guns, drugs, and goods entering the U.S. by crossing the Rio Grande River between Mile Markers 275.5 and 610 from 2020 through the present; and,
29. Implementation and impact of the June 4, 2024, Executive Order on border security and asylum claims by the Biden Administration on the operations on Rio Grande River between Mile Markers 275.5 and 610 from 2020.